

HOUSE BILL NO. 495

INTRODUCED BY R. KOOPMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; MAKING THE QUALIFIED ENDOWMENT CREDIT PERMANENT; PROVIDING THAT FOR THE PURPOSES OF THE QUALIFIED ENDOWMENT CREDIT, A PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY SCHOOL OR HIGH SCHOOL OR AN ORGANIZATION WHOSE SOLE PURPOSE IS TO SUPPORT A PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY OR SECONDARY SCHOOL IS A QUALIFIED ENDOWMENT; PROVIDING THAT ANY CONTRIBUTION TO A PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY SCHOOL OR HIGH SCHOOL OR TO AN ORGANIZATION WHOSE SOLE PURPOSE IS TO SUPPORT A PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY OR SECONDARY SCHOOL IS A PLANNED GIFT; AMENDING SECTION 15-30-165, MCA; REPEALING SECTION 9, CHAPTER 537, LAWS OF 1997, AND SECTION 5, CHAPTER 226, LAWS OF 2001; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-165, MCA, is amended to read:

"15-30-165. (Temporary) Qualified endowments credit -- definitions -- rules. For the purposes of 15-30-166, the following definitions apply:

(1) Subject to ~~subsection~~ subsections (3) through (5), "planned gift" means an irrevocable contribution to a permanent endowment held by a tax-exempt organization, or for a tax-exempt organization, when the contribution uses any of the following techniques that are authorized under the Internal Revenue Code:

- (a) charitable remainder unitrusts, as defined by 26 U.S.C. 664;
- (b) charitable remainder annuity trusts, as defined by 26 U.S.C. 664;
- (c) pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);
- (d) charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);
- (e) charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);
- (f) charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- (g) deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);

1 (h) charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B);

2 (i) paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.

3 (2) (a) "Qualified endowment" means a permanent, irrevocable fund that is held by a Montana
4 incorporated or established organization that:

5 ~~(a)~~(i) is a tax-exempt organization under 26 U.S.C. 501(c)(3); or

6 ~~(b)~~(ii) is a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund on
7 behalf of a tax-exempt organization.

8 (b) For the purposes of 15-30-165 through 15-30-167, a permanent, irrevocable fund held by a public
9 or private, nonprofit elementary school or high school in Montana is considered to be a qualified endowment.

10 (c) (i) For the purposes of 15-30-165 through 15-30-167, a permanent, irrevocable fund held by an
11 organization whose sole purpose is to support the work of a public or private, nonprofit elementary school or high
12 school in Montana is considered to be a qualified endowment.

13 (ii) The organization must have a letter of approval from the board of trustees of the school that the
14 organization is supporting. The letter of approval must be renewed annually by the trustees.

15 (3) (a) A contribution using a technique described in subsection (1)(a) or (1)(b) is not a planned gift
16 unless the trust agreement provides that the trust may not terminate and the beneficiaries' interest in the trust
17 may not be assigned or contributed to the qualified endowment sooner than the earlier of:

18 (i) the date of death of the beneficiaries; or

19 (ii) 5 years from the date of the contribution.

20 (b) A contribution using the technique described in subsection (1)(g) is not a planned gift unless the
21 payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life
22 expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables adopted
23 by rule by the department in effect on the date of the contribution.

24 (c) A contribution using a technique described in subsection (1)(f) or (1)(g) is not a planned gift unless
25 the annuity agreement provides that the interest of the annuitant or annuitants in the gift annuity may not be
26 assigned to the qualified endowment sooner than the earlier of:

27 (i) the date of death of the annuitant or annuitants; or

28 (ii) 5 years after the date of the contribution.

29 (d) A contribution using a technique described in subsection (1)(f) or (1)(g) is not a planned gift unless
30 the annuity is a qualified charitable gift annuity as defined in 33-20-701.

(4) For the purposes of 15-30-165 through 15-30-167, any form of contribution to a public or private, nonprofit elementary school or high school in Montana is considered a planned gift.

(5) (a) For the purposes of 15-30-165 through 15-30-167, any form of contribution to an organization whose sole purpose is to support the work of a public or private, nonprofit elementary school or high school in Montana is considered a planned gift.

(b) The organization must have a letter of approval from the board of trustees of the school that the organization is supporting. The letter of approval must be renewed annually by the trustees.

~~(4)(6)~~ The department shall adopt rules to prepare life expectancy tables that are derived from the actuarial tables contained in the most recent Publication 1457 by the internal revenue service. ~~(Terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"~~

NEW SECTION. **Section 2. Repealer.** Section 9, Chapter 537, Laws of 1997, and Section 5, Chapter 226, Laws of 2001, are repealed.

NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2005.

NEW SECTION. **Section 4. Applicability.** [This act] applies to charitable gifts made on or after July 1, 2005.

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